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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,082	03/06/2002	Michael E. Cotto	006-241-300	8490

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary	Application No. 10/092,082	Applicant(s) COTTO, MICHAEL E.	
	Examiner Raymond W. Addie	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 5, 6, 9 are objected to because of the following informalities:

Claim 1, line 4, the word "traverse" should be --transverse--.

Claim 5, line 1, the word "traverse" should be --transverse--.

Claim 4, line 4, the word "traverse" should be --transverse--.

Claim 9, line 3, the word "traverse" should be --transverse--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson # 3,838,474.

Erickson discloses a grading rake comprising:

An elongated handle (20); a holder (10); for a transverse rake head (15); a plurality of generally uniformly spaced apart tines (17).

Erickson further discloses the tines are solid and made of a nylon polymer and the holder (10) holds the elongated handle (20) at an angle with respect to the longitudinal axis of the transverse rake head (15).

See col. 2, lines 25-50.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson # 3,838,474 in view of Darnell # 5,414,982.

Erickson discloses essentially all that is claimed, except for tines having truncated ends. However, Darnell '982 teaches it is desirable to provide a rake (10) with tines (20) having truncated, flat surfaced tine ends (see Fig. 3). Said ends being parallel with a plane formed by said handle and a rake head (26). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the rake of Erickson, with tines having truncated ends, in order to permit said tines to level a material being raked. See Darnell, col. 2, lines 13-col. 3, line 32.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson # 3,838,474 in view of Gibbs # 567,129.

Erickson '474 discloses essentially all that is claimed, except for the use of a transverse head having a plurality of openings for receiving and fastening a plurality of tines.

However, Gibbs discloses a rake having a cylindrical, transverse head (k) having a plurality of openings for receiving and fastening a plurality of tines (3) therethrough.

Therefore, it would have been obvious to one of ordinary skill in the art, to provide the rake of Erickson, with a rake head assembly, as taught by Gibbs, in order to increase the strength of the rake. See Gibbs Cols. 1-3.

5. Claims 6, 7, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs # 567,129 in view of Erickson # # 3,838,474.

Gibbs discloses a grading rake comprising: An elongated handle; a holder (unnumbered) for receiving a rake head (K) at one end and said elongate handle at an opposing end, such that the handle is held at an angle with respect to the longitudinal axis of said rake head (K); a plurality of tines (E), being spaced apart and held within said rake head by a plurality of openings (B).

What Gibbs does not disclose is the use of plastic materials.

However, Erickson teaches it is desirable to make a rake having solid, cylindrical, nylon tines, that are yieldable but resist breaking and permanent deformation.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the rake of Gibbs with plastic tines, as taught by Erickson, in order to reduce the weight of the rake, as suggested by Gibbs.

See Gibbs Col. 2, Erickson Col. 2.

In regards to Claims 9-11 Gibbs teaches a method of grading particulate matter, using a grading rake with comprises: An elongated handle; a holder (unnumbered) for receiving a rake head (K) at one end and said elongate handle at an opposing end, such that the handle is held at an angle with respect to the longitudinal axis of said rake head (K); a plurality of tines (E), being spaced apart and held within said rake head by a plurality of openings (B). Said method comprising the steps of:

Pushing the rake forward across the particulate matter to smooth the surface of the matter.

Drawing the rake head back so the tines engage, elevate and separate the particles .

What Gibbs does not disclose is the use of plastic materials.

However, Erickson teaches it is desirable to make a rake having solid, cylindrical, nylon tines, that are yieldable but resist breaking and permanent deformation. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the rake of Gibbs with plastic tines, as taught by Erickson, in order to reduce the weight of the rake, as suggested by Gibbs.

See Gibbs Col. 2, Erickson Col. 2.

In regards to Claim 10, Gibbs discloses providing tines that extend rearwardly from a lower surface of the rake head. See Fig. 1.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs # 567,129 in view of Erickson # 3,838,474, as applied to claim 6 above, and further in view of Robinson # 678,519.

Gibbs in view of Erickson discloses essentially all that is claimed, except for providing a 30-60 degree taper to the tines. However, Robinson teaches the use of a garden tool having a plurality of tines (13, 15), which are tapered toward the user (see Fig. 3).

Although Robinson does not specifically disclose the range of tapering of said tines, fig. 3 clearly illustrates the bottom ends of the tines (13, 15) to have a tapered surface within the range of 30-60 degrees with respect to the horizontal. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the method of raking of Gibbs in view of Erickson, with tapered tines, as taught by Robinson, in order to more efficiently grade the material being graded. See Robinson col. 1, line 45-col. 2, line 70.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs # 567,129 in view of Erickson # 3,838,474, as applied to claim 6 above, and further in Darnell # 5,414,982.

Gibbs in view of Erickson discloses essentially all that is claimed, except for providing tines having truncated ends.

However, Darnell '982 teaches it is desirable to provide a rake (10) with tines (20) having truncated, flat surfaced tine ends (see Fig. 3). Said ends being parallel with a plane formed by said handle and a rake head (26). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the method of raking of Gibbs in view of Erickson, with tines having truncated ends, in order to permit said tines to level a material being raked. See Darnell, col. 2, lines 13-col. 3, line 32.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Greene, III # 4,970,853 discloses a push rake. Baillet et al. # 3,850,541 discloses a vibrating comb structure.

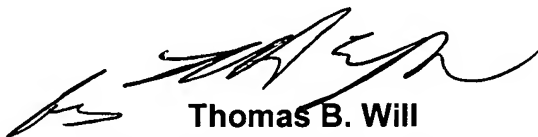
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to

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2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

RWA
12/15/2002